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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/807,403

03/24/2004

Neil Barry Ward

66299-023-5

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08/21/2006

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WASHINGTON, DC 20005

EXAMINER

NGO, LIEN M

ART UNIT

PAPER NUMBER

3754

DATE MAILED: 08/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-------------------------------|-----------------------------|--|
| Office Action Summary | Application No. 10/807,403 | Applicant(s) WARD ET AL. | |
| | Examiner LIEN TM NGO | Art Unit 3754 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed 6/16/04 fails to comply with 37 CFR 1.98(a)(1), which requires the following: (1) a list of all patents, publications, applications, or other information submitted for consideration by the Office; (2) U.S. patents and U.S. patent application publications listed in a section separately from citations of other documents; (3) the application number of the application in which the information disclosure statement is being submitted on each page of the list; (4) a column that provides a blank space next to each document to be considered, for the examiner's initials; and (5) a heading that clearly indicates that the list is an information disclosure statement. The information disclosure statement has been placed in the application file, but the information referred to therein has not been considered.

There is no PTO Form 1449.

Priority

2. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in New Zealand on 3/24/2003. It is noted, however, that applicant has not filed a certified copy of the New Zealand application as required by 35 U.S.C. 119(b).

Double Patenting

3. Claim 8 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 1. When two claims in an application are duplicates or else are so close in content

that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Tada (3,927,834). Tada discloses, in fig. 1, a dispensing apparatus comprising a barrel 11; a plunger 13 moveable between a first position and a second position within said barrel, a head 42 of said plunger and an inner wall of said barrel together defining a chamber 12 of variable volume wherein said volume is at a maximum when said plunger is in said first position and said volume is at a minimum when said plunger is in said second position, at least one fluid inlet valve means 57 operable to allow fluid to flow into said chamber when said volume increases, at least one fluid outlet valve means 47a operable to allow fluid to flow out of said chamber when said volume decreases, biasing means 38 to bias said plunger towards said first position, plunger actuating means 15 operable to actuate said plunger towards said second position, and plunger damping means 50 to decelerate said plunger when said plunger is moving towards said first position before said plunger reaches said first position by the friction of a flexible flaring

skirt portion 50, which is slides along the inner wall of the barrel 11. The plunger damping means is a resilient element having U shaped spring member.

6. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Heijden (6,220,483). Heijden discloses, in fig. 1, a dispensing apparatus comprising a barrel 5; a plunger 22 moveable between a first position and a second position within said barrel, a head 72 of said plunger and an inner wall of said barrel together defining a chamber 21 of variable volume wherein said volume is at a maximum when said plunger is in said first position and said volume is at a minimum when said plunger is in said second position, at least one fluid inlet valve means 28 operable to allow fluid to flow into said chamber when said volume increases, at least one fluid outlet valve means 36 operable to allow fluid to flow out of said chamber when said volume decreases, biasing means 7 to bias said plunger towards said first position, plunger actuating means 50 operable to actuate said plunger towards said second position, and plunger damping means 72, 64 to decelerate said plunger when said plunger is moving towards said first position before said plunger reaches said first position. The plunger damping means is a resilient element having U shaped spring member 72.

7. Claims 1-3 and 5-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Nozawa (4,082,223). Nozawa discloses, in figs. 1 and 2, a dispensing apparatus comprising a barrel 20; a plunger 31 moveable between a first position and a second position within said barrel, a head 31 of said plunger and an inner wall of said barrel together defining a chamber 21 of variable volume wherein said volume is at a maximum when said plunger is in said first position and said volume is at a minimum

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when said plunger is in said second position, at least one fluid inlet valve means 30 operable to allow fluid to flow into said chamber when said volume increases, at least one fluid outlet valve means 46 operable to allow fluid to flow out of said chamber when said volume decreases, biasing means 39 to bias said plunger towards said first position, plunger actuating means 39 operable to actuate said plunger towards said second position, and plunger damping means 32 to decelerate said plunger when said plunger is moving towards said first position before said plunger reaches said first position. The plunger damping means is a spring member 32.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LIEN TM NGO whose telephone number is 571-272-4545. The examiner can normally be reached on Monday through Friday from 8:30 AM -6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, KEVIN SHAVER can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LIEN TM NGO
Primary Examiner
Art Unit 3754

August 16, 2006

A handwritten signature in black ink, appearing to be 'Lien TM Ngo', written in a cursive style.